TMDL AND NPS PROGRAM INTERSECTION

PURPOSE

Explore how we can use the TMDL and nonpoint source (NPS) program requirements to make both programs more efficient and effective, leading towards improved environmental outcomes.

KEY POINTS

- EPA is using its authority to make determinations on satisfactory progress on state NPS programs prior to issuing CWA §319 grant funds to influence EPA Region 10 states in furthering their watershed restoration programs.
- As a condition of using § 319 funds to develop TMDLs, the states are required to include supplemental information to support the load allocations specified in the TMDL. This information both supports 1) the development and implementation of watershed based plans (WBP) under the NPS program and 2) the required reasonable assurance demonstration in mixed source TMDLs, as well as supporting the development of implementation-ready TMDLs within the TMDL program. Three of the four Region 10 states (Alaska, Oregon & Washington) use 319 funding for TMDL development.
- In accordance with 319 guidance, EPA may approve an alternative planning approach to the WBP required to guide implementation of watershed restoration or protection efforts. Furthermore, EPA regions are expected to annually review a sample of WBPs from each state in their region and provide feedback and recommendations to help ensure these plans lay a good foundation for efforts to restore and/or protect waters. Three out of four of EPA Region 10's states (Idaho, Oregon & Washington) are required to develop TMDL implementation plans, which are used as an alternative plan to the WBP and the Region has an opportunity to play a key role in influencing the quality of these plans.
- Current focus on Oregon's coastal nonpoint source program under CZARA could not only lead to improved NPS environmental outcomes, but a push towards the development of high quality implementation-ready TMDLs.
- EPA Region 10 is in a great place to integrate TMDLs, CZARA and NPS programs because of organizational structure (three out of four states and EPA Region 10 have all of these programs within the same organizational unit—and a majority of the state NPS coordinators in EPA Region 10 also work in the TMDL program) and requirements (three out of four of EPA Region 10's states are required to develop TMDL implementation plans which also serve as WBPs).

BACKGROUND:

Although states are required by the CWA to develop TMDLs, the Act does not require the development of TMDL implementation plans or carrying out the NPS load reductions contained within the TMDLs. In the case of TMDLs for waterbodies primarily impaired by NPS, the NPS program can advance TMDL implementation and watershed restoration in a variety of ways.

For example, to ensure that TMDLs developed with §319 funds have maximum utility for informing and facilitating the implementation of NPS projects, the states must provide the following supplemental information to support the load allocations specified in the TMDL:

> (1) an identification of total NPS existing loads and total NPS load reductions necessary to meet water quality standards, by source type;
> (2) a detailed identification of the causes and sources of NPS pollution by source type to be addressed in order to achieve the load reductions specified in the TMDL (e.g., acres of various row crops, number and size of animal feedlots, acres and density of residential areas); and
> (3) an analysis of the NPS management measures by source type expected to be implemented to achieve the necessary load reductions, with the recognition that adaptive management may be necessary during implementation.

EPA encourages state NPS staff to work with state TMDL staff during TMDL development. In Alaska, Oregon, and Washington, TMDLs, CZARA, and NPS programs are in the same unit, so state staff are already integrated or organizationally structured to facilitate integration. NPS staff can bring knowledge of BMP effectiveness and feasibility to ensure that NPS load reduction goals in the TMDL are achievable. This coordination provides a smoother transition from development of the TMDL to its implementation and makes this implementation more likely to occur.

Furthermore, this information can be used for the TMDL reasonable assurance demonstration. This demonstration shows that the nonpoint source controls will achieve expected load reductions and meet water quality standards (WQS) through providing a roadmap of what and how these NPS reductions will occur over time. Documenting adequate reasonable assurance increases the probability that regulatory and voluntary mechanisms will be applied such that the pollution reduction levels specified in the TMDL are achieved and, therefore, applicable WQS are attained.

Other issue papers discuss in detail the Oregon and Washington coastal nonpoint source programs under CZARA. In Oregon, development of implementation-ready TMDLs may provide resolution of the remaining forestry and agriculture issues within its coastal nonpoint program.

DISCUSSION POINTS

- How can we use and coordinate the TMDL, CZARA and NPS programs to more efficiently and effectively achieve better environmental outcomes?
    - How can we use our authority to make determinations on satisfactory progress on state NPS program to further common goals of the three programs and to make progress on the state's watershed planning and restoration program? For example, when is it appropriate to invoke a finding of unsatisfactory progress, which triggers a loss of a state's annual 319 grant award, if a state continually misses a critical annual milestone contained in its NPS plan?
    - What are the specific ways that we can use the 319 guidance requirements, such as the required supplemental information for TMDLs and review of WBPs/TMDL implementation plans, to further the goals of both the NPS and TMDL programs?
    - How can current efforts in the Oregon and Washington coastal nonpoint programs lead to improved TMDLs and NPS program outcomes?